

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 08-0023
Use Tax
For the Year 2004

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Use Tax—Agricultural Exemption

Authority: IC § 6-2.5-5-2

Taxpayer protests the Department's assessment of use tax with respect to an item of equipment.

STATEMENT OF FACTS

Taxpayer is an individual who operates a farm. In 2004, Taxpayer purchased a Case 60XT Skid Steer Loader ("Loader"). The "Loader" is a vehicle designed for digging, hauling, and other related uses. When Taxpayer purchased the Loader, Taxpayer provided an exemption certificate to the retailer. By issuing the exemption certificate, Taxpayer avoided paying sales tax at the time of purchase. Subsequently, the Indiana Department of State Revenue ("Department") audited the retailer. Upon audit, the Department noted Taxpayer's exemption certificate, and assessed Taxpayer use tax on the Loader. Taxpayer protested the assessment, the Department conducted a hearing, and this Letter of Findings results.

I. Use Tax—Agricultural Exemption

DISCUSSION

Taxpayer protests the assessment of use tax with respect to the Loader. In particular, Taxpayer argues that he used the Loader for agricultural purposes, in particular the "gathering, moving, and spreading animal waste."

Under IC § 6-2.5-5-2,

(a) Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use

in the direct production, extraction, harvesting, or processing of agricultural commodities.
(b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:

- (1) the person acquiring the property acquires it for use in conjunction with the production of food and food ingredients or commodities for sale;
- (2) the person acquiring the property is occupationally engaged in the production of food or commodities which he sells for human or animal consumption or uses for further food and food ingredients or commodity production; and
- (3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.

Taxpayer has provided sufficient information to conclude that the Loader is exempt from use tax based on its current use in Taxpayer's agricultural operations.

FINDING

Taxpayer's protest is sustained.

JR/BK/DK January 29, 2008